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CRIMINALS AND THE LAW

pair the wrong. Again children and insane persons are not responsible criminally, but in certain cases their property may be drawn upon to pay damages for a wrong committed. Only responsible persons therefore are subjected to physical compulsion, but the representatives of children and insane persons are bound to heal the old wound made by the latter. An interesting question now arises: Should the state repair the damage caused by children and insane persons who are both irresponsible in the eyes of the law? There is no justification in law for charging their estates because their acts or omissions are not anti-juridical. "But I should base my position," says the author, "in favor of charging the estates of individuals upon the ground of social utility. Social utility is the touchstone by which you must test every juridical situation." To resume the antithesis; it must also be noted that it makes no difference who pays the damages just so long as they are paid, whereas punishment can be inflicted only upon the responsible doer of the wrong. Finally, it is important to mark that while the command of the state to pay damages may be directed to associations of individuals, it is the individual alone who can commit crime and who must undergo punishment.

[Furnished by Robert Ferrari, New York City.]

Justice De Courcy's Promotion.—In the *Boston Transcript* is an account of the promotion of Justice De Courcy to a Justiceship in the Supreme Court of the state of Massachusetts. The writer of the editorial in the *Transcript* says that Justice De Courcy has had the distinct advantage of having been a very successful lawyer. Besides this, and in addition to having been a strong judge in the Superior Court, Mr. De Courcy has a strong literary bent. He is exceedingly well grounded in the classics and in poetry and is noted for his oratorical ability, which he has shown in occasional addresses. Moreover, as the readers of this JOURNAL know, his interest in criminal law has always been strong and extensive. Ever since the organization of the American Institute of Criminal Law and Criminology, he has been an active contributor to the JOURNAL of the Institute and a member of its editorial board.

In 1882 and 1883 Judge De Courcy was in the law office of the late Hon. John K. Tarbox, and in January of 1884 he became assistant district attorney with the Hon. H. F. Hurlburt, which office he held six years. In 1887 he was honored by appointment to the presidency of Boston University Law School Alumni Association. He was chosen city solicitor of Lawrence in 1892. The year following he entered partnership with Attorney Walter Coulson. The same year he was chosen trustee of the public library. In 1907, Judge De Courcy was chosen president of the State Conference of Charities, and in 1908 was appointed the first chairman of the Massachusetts Probation Commission, the law creating which he was instrumental in having enacted. He is vice-president of the National Conference of Catholic Charities; chairman of the committee of criminal law reform of the American Prison Association. He is a member also of the Board of Visitors of Boston University Law School. Last year he was chosen one of the Massachusetts delegates to the International Prison Congress at Washington.

R. H. G.

Criminals and the Law.—The following is from the Canadian *Law Times* for July, 1911, under the authorship of Archibald Hopkins, Esq.:

"There is a change in the present method of administering the criminal law

AID FOR CONVICTS' FAMILIES

which, while it may be open to objection, can hardly fail, if tested, to insure ameliorated conditions. Society is interested in apprehending, convicting and punishing the criminal, and holds itself responsible for doing so. Is it not equally interested in and responsible for the protection of the innocent? What greater wrong or injustice can be imagined than the arrest, indictment, and trial of a perfectly innocent person? It constantly happens. The whole power and machinery of the state is turned against a single individual who is often without means to defend himself or has to sacrifice all that he possesses to do so. The least that the state should do when it has mistakenly accused a man, is to assume the expense he has been put to. No one can compensate him for the distress he has suffered. But why should the state not do more than that? Why should it not have sworn officers of high character to defend as well as to prosecute? Whatever the objections, the benefits would be clear and immediate. The accused would be sure of a fair trial from which all subornation of perjury would be removed and which would be conducted without the legal pyrotechnics and sensationalism which now prevail. Objectionable personalities of counsel, unreasonable delay in obtaining juries, groundless objections to questions, misleading statements to the jury and chicane, trickery, and bribery in influencing them would all disappear. Government counsel for the accused would be just as sincere and earnest in their defense as the district attorney in prosecution, but the scales would be held evenly, and not as now, as has been said, with the entire power and weight of the state on one side. Not only would it greatly improve the character of criminal trials and promote the ends of justice to have government defense, but it would bring another very great benefit, it would put the criminal bar out of business. Doubtless it comprises some honorable, upright men, but it has, as a whole, always been a reproach to the profession, and an ally to crime, shielding criminals by perjury and fraud, and necessarily living off the proceeds of their wrongdoing. It is safe to say that there would be fewer crimes committed were not criminals everywhere aware that clever, experienced, wholly unscrupulous lawyers, who will stop short of nothing save their own incarceration, are always to be found to defend them by every expedient which trained ingenuity, deceit, false swearing, and jury bribing can compass. Is it not worth considering whether society as a whole would not be benefited by so changing the method of criminal trials that the government shall be charged with the defense as well as the prosecution of accused persons, far beyond any additional expense that it may involve? If it be said that an accused person has the right to select his own attorney, it might be conceded that he should be permitted to call assistance, but the directing of the conduct of the trial should be left in the hands of the government attorney, insuring the elimination of the worst evils that disgrace the existing system."

R. H. G.

Aid for Convicts' Families.—Kansas City is making an interesting experiment in the problem of supporting the families of convicts. Under a law that has been in existence two months the judge of the Juvenile Court of Kansas City has power to give pensions, for the aid of such families, to wives or widows of convicts residing in his county. For one child under 14 years of age \$10 a month is granted, for each additional child \$5 a month. The pensions are given only when by their aid the mother is enabled to remain at home with